



HOME BUILDERS ASSOCIATION OF CONNECTICUT, INC.
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Is Our
Business*

February 18, 2009

To: Senator Ed Meyer, Co-Chairman
Representative Richard Roy, Co-Chairman
Members of the Environment Committee

From: Bill Ethier, CAE, Chief Executive Officer

Re: **Proposed Bill 5797, An Act Prohibiting High-Density Housing Near a Working Farm**

The HBA of Connecticut is a professional trade association with almost one thousand, three hundred (1,300) member firms statewide, employing tens of thousands of Connecticut citizens. Our members are residential and commercial builders, land developers, remodelers, general contractors, subcontractors, suppliers and those businesses and professionals that provide services to this diverse industry. We also created and administer the Connecticut Developers Council, a professional forum for the land development industry in the state.

The HBA of Connecticut is opposed to this bill. We understand the purpose of this bill is to protect new homebuyers in high density housing from the pollution (volatile organic compounds) caused by farming activities. We note that other adverse affects from farming, raised in similar legislation in previous years, could also extend to noise, smells, and dust. The other purpose of the bill is to protect farmers from homeowners' "nuisance complaints" about their farming activities. Under either of these purposes, we find this bill unnecessary and unwarranted.

Prohibiting any housing or creating a mandatory buffer (as in previous year legislation) presumes there is an incompatibility between two different land uses. But, many home buyers prefer to live next to farms because of the views and scenic beauty they often offer to communities. Builders would not build in such locations if homebuyers did not want to live there. Barriers between these two uses of land would destroy one of the benefits of living adjacent to agriculture. We urge you to preserve homebuyers' freedom to choose to live next to and fully enjoy the views of farms.

As for the pollution that may runoff from farms, prohibiting high density housing next to working farms first begs the question why lesser density housing would not need protection.

But more to the point, the legislative response should not be to prohibit adjacent non-offending uses that might be affected by the polluting runoff. The response should be to prohibit the pollution. As for other presumed ill-effects (smells, noise, dust), buyers do not need to be protected from themselves. Any buyer of a new home that is adjacent to active agriculture would be readily aware of the existence of such

agricultural activities. These buyers willingly enter into their purchase decisions fully aware of their surroundings. **Moreover, residential development currently has imposed on it side yard and setback requirements under zoning regulations that already offer adequate buffers to agriculture.** Municipalities do not need any new blanket authority regarding prohibitions on high-density housing. If a particular homeowner wants to shield themselves from adjacent agricultural activities, they can create their own plantings or fencing or negotiate with a builder to include these barriers into their purchase contracts, or buy a new home somewhere else.

As for questions raised by this bill, how would a working farm or active agriculture be defined? How far away is "near" the working farm? Are the contemplated prohibitions on housing in the proposed bill necessary in all cases, i.e., do all working farms produce the same pollution runoff? If not, in which cases should they be imposed? How is a housing developer to know which is which? What happens when the agricultural activities change over time from one such use to another that has widely different potential offsite impacts? Will builders or other property owners be compensated if the agricultural activities cease to exist, removing the necessity of a housing prohibition, but the property owner has lost a potential housing market? How much research would a home builder have to do regarding the agricultural activities to make sure that any proposed residential development plans is not impacted by this statutory moratorium?

Finally, the bill is also impractical if it is to protect the farmer from homeowner complaints. Prohibiting high density housing alone would not eliminate all complaints – and this does not mean we would support the prohibition of all housing next to farms.

As to protecting the farmer from complaints, it takes only one homeowner who, on a warm day, after the farmer's application of an animal-derived compost, when a slight breeze passes over the farmer's land and carries that rural distinctiveness well offsite, to generate a complaint. How much of our lives does the state really need to regulate? The legislative and legal response to both the homeowner and the farmer should be "suck it up" and enjoy the day.

For all the reasons above, we urge you to not draft or pass this bill.

Thank you for the opportunity to comment and consideration of our views on this matter.